

REMARKS/ARGUMENTS

Claims 22-31 are pending. By this Amendment, claims 19-21 have been canceled in favor of new claims 22-31. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

The disclosure is objected to under 37 CFR 1.71. In a related matter, the drawings were objected to under 37 CFR 1.83(a) as failing to adequately show the fixing means as referenced in the specification, and claims 19-21 were rejected based on the alleged failure to provide a detailed description of a fixing means.

These objections are respectfully traversed inasmuch as they might apply to new claims 22-31.

However, Applicant respectfully submits that the Examiner's position regarding the above noted rejection and objections is not warranted. In particular, claim 19 clearly recites a fixing structure provided to fix the position of the foot rest relative to the chair about the pivot axis. Page 5, lines 17 and 18 specify that fixing means such as lock bolts are provided so that the position of the foot rest about the pivot, when selected, can be secured.

Thus, the original specification provides unambiguous support for and written description of the invention as set forth in claim 19.

Moreover, in the rejection under 35 U.S.C. §112, first paragraph, the Examiner appears to interpret claim 19 as a fixing means. However, this interpretation seems unwarranted as claim 19 specified a fixing structure which is not recited in traditional means-plus-function format, thereby not invoking 35 U.S.C. §112, sixth paragraph. In order to even further obviate this issue, claim 22 eliminates reference to fixing means, instead specifying that the foot rest is pivotally mounted with respect to the stairlift chair about a substantially vertical pivot axis, the position of

the pivot axis lying on both the plane through the central axis of the chair and the geometric center line of the foot rest, and wherein the foot rest is arranged to be fixed in more than one pivotal orientation about the vertical pivot axis.

Moreover, the Examiner improperly extends the plain and simple meaning of fixing means, especially as these are described to be limited to the exemplary lock bolts which are described on page 5, lines 17 and 18. These lock bolts are also shown as element 21 in Figure 2, thus, obviating the objection to the drawings.

In addition, it is noted that original claim 5 of the PCT application of which the present application is a U.S. national phase set forth fixing means to fix the position of the foot rest about the pivot point.

Thus, there is no question that the written description prong of 35 U.S.C. §112, first paragraph had been satisfied.

To the extent that the Examiner intended to refer to the enablement requirement, Applicant respectfully submits that one of ordinary skill in the art would, after reading the present specification, know how to make and use the claimed invention. Such might include the examples indicated by the Examiner, e.g., the foot rest may be translated along an arced slot of a plate or bracket, etc.

In any event, as indicated above, it is believed that new claims 22-31 avoid the objectionable language noted by the Examiner, such that reconsideration and withdrawal of the drawing and specification objections as well as the rejection under 35 U.S.C. §112, first paragraph are respectfully requested.

Claims 19-21 were rejected under 35 U.S.C. §103(a) over Voves et al. (U.S. Patent No. 4,913,264) in view of Wu (U.S. Patent No. 6,206,119) and in further view of Fortnam (U.S. Patent No. 3,820,844). This rejection is respectfully traversed.

Applicant respectfully submits that the Examiner is incorrect in his analysis and is basing his analysis of a lack of inventive step with the use of impermissible hindsight which is clearly not allowable.

The Examiner has referred to the background of the invention as described in paragraphs 2 to 5 of the specification as filed. Foot rests on stair lifts are known however prior art foot rests encounter difficulties in providing clearance between the foot rest and a stair case. This may occur at certain positions of the stair lift chair along the stair lift rail and is most commonly encountered where the staircase changes direction. Clearly the foot rest must be in the “down” or “in-use” configuration when moving along the intermediate points of the stair lift rail for comfort of the user and cannot ideally be retracted in order to move around a corner, for example. However, the present invention provides an arrangement of standard configuration to be installed in a wide variety of stairway applications where, for example, the stairway is right handed or left handed. The stair lift therefore has the ability to be adjusted by the installer in order to ensure the best compromise between passenger comfort and the need to provide operating clearance between the stair lift and the stair case.

Whilst bearing this background information in mind, reference is made to the first piece of prior art cited by the Examiner by Voves et al. As agreed with the Examiner, Voves clearly relates to a stair lift chair and is silent with respect to the inner edge being shorter than the outer edge, the foot rest pivotally mounted about a vertical pivot axis and a position of the pivot axis lying on both a plane through a central axis of the stair lift chair and a geometric centre line of

the foot rest. The operation of the foot rest as shown in Figures 1 and 2 is clear where the foot rest 146 pivots about point 148 in the horizontal orientation for storage purposes. Accordingly, interference is reduced with ordinary use of the stairway. Firstly, there is no disclosure or suggestion in Voves of the problem overcome by the present invention. Voves does not contemplate that the stair lift may have to turn around corners for example, which would clearly cause the foot rest 146 to interfere with the stairway. This has clearly not been considered by Voves as the foot rest does not show an inner edge shorter than the outer edge nor that the foot rest is pivotally mounted about a vertical pivot axis nor a position of the pivot axis lying on both a plane through a central axis of the stair lift chair and a geometric centre line of the foot rest.

The Examiner then submits that the skilled addressee would take the teaching of Voves et al and combine with the teaching of Wu in an attempt to arrive at the claimed subject matter. It is noted at this stage that even a combination of these two documents does not disclose or suggest an arrangement as defined in current claim 22. The skilled addressee would have no incentive to take the teaching of Voves et al and combine with Wu as the problem of the stair lift having to turn around corners for example has not even been considered. In no way would a skilled addressee arbitrarily take the teaching of Voves et al and combine with Wu. This is supported by the fact that there is no disclosure of the problem overcome by the claimed invention in Voves et al and furthermore that Wu describes an electrical wheelchair rather than a stair lift chair. This is contrary to the Examiner's assertion in the final paragraph of page 4 of the outstanding Office Action. Reference is made to Figure 1 of Wu which, as agreed with the Examiner, has a geometric centre line wherein the foot rest has an inner edge (approximately 60) shorter than an outer edge of the foot rest. Furthermore, as also agreed with the Examiner and as clearly shown in Figure 5, the foot rest is pivotally movable in the horizontal orientation with

respect to the wheelchair. However, a skilled addressee on reading Wu would have no incentive to combine the feature of the inner edge being shorter than the outer edge of the footrest with the teaching of Voves et al. There is no consideration in Wu of the reason for this specific design configuration. This design feature may potentially be aesthetically better looking, however there appears to be no technical benefit. The Examiner is taking an arbitrary feature from the footrest of a wheelchair and combining with the stair lift chair when there is no incentive for the skilled addressee to do so. No technical benefit is suggested by either piece of prior art and it is submitted that the skilled addressee would not be taught to combine the two pieces of prior art to partially arrive at the claimed invention. There is no disclosure in Wu that a footrest would pivot about a vertical orientation and indeed there is absolutely no reason why it should do so. A skilled person would clearly realize that there is a benefit of having a pivotally mounted footrest for a wheelchair as the footrest can be stored away so that a user can easily access the chair portion however this pivotal axis would clearly be in the horizontal orientation rather than the vertical orientation.

Again, as agreed with the Examiner, Wu is silent with respect to the footrest being pivotally mounted about a vertical pivot axis and a position of their pivot axis lying on both a plane through a central axis of the chair lift chair and a geometric centre line of the footrest. The Examiner then submits that the skilled addressee on the teaching of both Voves et al and Wu, having already made an inventive step in combining these two disclosures would then make a further inventive step by combining these disclosures with Fortnam. Again reference is made to the problem overcome by the claimed invention which enables a stair lift of a standard configuration to be installed in a wide variety of stairway applications, where the stairways may have turns for example. This problem is again stated to be not considered by Voves, Wu or

Fortnam meaning that the skilled but unimaginative addressee would have no incentive to combine these documents as the problem would not be apparent to the skilled addressee.

Fortnam is directed to a dentist's chair having a rotating footrest. It functions in that by applying vertical load to the footrest feet attached to the underside of the footrest are displaced down into contact with the floor thus locking the chair in position. The skilled addressee would clearly not consider the teaching of Fortnam when faced with the problem of providing a stair lift that may be usable in a large number of stairway configurations particularly, for example, when a stair lift must turn a corner. The footrest of Fortnam is specifically designed to interfere with its surroundings i.e. the floor on which the chair is supported. The person skilled in the art in the field of stair lifts would not seek guidance from the teaching of Fortnam in relation to the problem of interference with the staircase as clearly the dentist's chair described in Fortnam and the footrest in particular is designed to come into contact with the floor. Clearly this would be of no use whatsoever for a stair lift. Furthermore, it is noted that the pivotal movement between the footrest and the chair is not restricted in any way. Claim 22 is limited to the fact that the footrest is arranged to be fixed in more than one pivotal orientation relative to the vertical pivot axis. Even when the footrest of Fortnam is locked down into contact with the floor, the central post 16 of the chair can still rotate within the footrest. Clearly such an arrangement would be wholly unsuitable for a stair lift foot rest and the skilled addressee would clearly understand this. In the claimed invention, once a suitable position for a stair lift footrest has been determined, the footrest must be securely locked into position which avoids the footrest moving itself into a position in which clashing might occur and also impart security and confidence to the stair lift user.

For the reasons outlined above, the skilled addressee would clearly not take the individual disclosures of Voves, Wu and Fortnam and arrive at the claimed invention. The skilled addressee would neither select nor combine these cited references when addressing the problem addressed by the disclosure. In any event, the central post 16 of the chair of Fortnam can still rotate within the footrest thus meaning that all of the features of claim 22 cannot in any event be found in the prior art.

Reconsideration and withdrawal of the rejection are respectfully requested.

In view of the above amendments and remarks, Applicant respectfully submits that all the claims are patentable and that the entire application is in condition for allowance.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140 under Order No. PTB-5091-6.

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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